

GAO Confirms Enforceability of 44 U.S.C. 501
Requiring Agency Print Purchases to go Through GPO
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On December 16, 2002, the U. S. General Accounting Office (GAO) issued a decision in Bureau of Land Management: Payment of Pocatello Field Office Photocopying Cost (B-290901).

The decision was a result of a request by a Bureau of Land Management (BLM) certifying officer requesting a decision as to whether or not BLM appropriated funds could be used to pay for photocopying services bought directly from a commercial vendor, without going through the U.S. Government Printing Office (GPO).

GAO found that since the BLM employees purchased the printing directly, in violation of the requirement of 44 U.S.C. 501 that agencies to go through the GPO for print purchases, without a prior waiver from the Public Printer, BLM was not authorized to spend appropriated funds for payment to the private printing contractor. The determination was based on the conclusion that since there was no authority to contract with the private sector printing provider, and since there was a contradictory statute (44 U.S.C. 501), any contract with a private sector printing contact imposed no legal obligation on the government to pay.

The bottom line is that GAO confirmed its prior decisions that agencies are still required to go through the GPO for print purchases, pursuant to 44 U.S.C. 501, and that failing to do so can have some serious consequences:

- 1) The printer may not be paid;
- 2) The agency may seek recovery of amounts inappropriately charged on impact cards from the employee who made the purchase. (See footnote 1 to the attached decision).

This GAO opinion continues the GAO's strong stance in support of enforcement of existing laws, including 44 U.S.C. 501, unless such laws have been declared unconstitutional by the appropriate federal court.

There are two other interesting sidelights in this decision.

1. GAO clearly described the work done as photocopying, yet noted in the first sentence of its discussion that the type of printing work involved is not excluded from the requirements of Title 44.
2. GAO referenced a GPO had a mandatory term contract in place for BLM, under which the GPO contractor could have performed the work "in a timely manner at considerably lower cost." The cost factor did not play into the GAO's legal decision ? it would have made no difference

whether or not the work would have been cheaper or more expensive had it been processed as required through GPO. But it is interesting to note that this is another instance where an agency has gone outside the GPO, and later investigation showed that they paid significantly more than they would have if the job been processed through GPO. I suspect that this price differential is due directly to the fact that agencies do not seek open competition when they contract out their printing directly.

To read the GAO decision, go to www.printlaw.com